

Chief District Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA

Plaintiff,

V.

SAMANTHA FRANCES BROOKS.

Defendant.

Case No. CR 20-215 RSM

GOVERNMENT'S SENTENCING
MEMORANDUM FOR SAM
BROOKS

Sentencing: October 8, 2021

Defendant Sam Brooks placed a shunt on BNSF Railway train tracks in Bellingham.

Shunts can delay the trains and shorten the warning times at railroad crossings. Shunts can even cause trains to decouple or derail. These risks are especially acute here because BNSF Railway trains frequently carry crude oil and other hazardous materials. For such a serious offense, the Court should sentence Brooks to a year and a day in prison and three years of supervised release.

I. The Offense

A. Criminal Conduct, Charge, and Guilty Plea

On November 28, 2020, near midnight, Brooks and co-defendant Ellen Reiche ventured out onto BNSF tracks near several homes and a public park in Bellingham, Washington. PSR ¶¶ 9–11. Law enforcement officers were watching the tracks in this area

1 closely because there had been a string of dozens of shunting incidents in this and
2 surrounding areas in the preceding months. PSR ¶ 8. That night in November, a camera
3 placed by the BNSF police spotted the defendants, and sheriff's deputies quickly responded
4 to the scene. PSR ¶ 11. A deputy found Brooks and Reiche bent over the tracks, and he soon
5 found a shunt that they had placed on the tracks in that spot. *Id.* Reiche was carrying a bag
6 that contained wire, a drill with a brush bit, and other items that would be used to place a
7 shunt. *Id.*

8 Shunts trick the railroad signal system by making it appear that a train is on the tracks.
9 PSR ¶ 10. Any actual trains approaching the area will be forced to slow down, and if already
10 close enough to the shunt, the train engineer (or backup safety systems) will stop the train
11 suddenly to avoid the perceived threat of a collision. *Id.* Freight trains are massive and not
12 designed to stop suddenly, and they can decouple or even derail from the abrupt braking. *Id.*
13 Indeed, as the Court heard during the recent trial of the co-defendant, a shunt placed on
14 BNSF tracks in October 2020 caused a train to engage emergency braking with such
15 suddenness and force that it decoupled and could have derailed. That BNSF trains frequently
16 carry hazardous freight makes such scenarios all the more dangerous.

17 The shunt placed by the defendants in this case was operational only momentarily,
18 PSR ¶ 12, perhaps because they were interrupted by deputies before firmly affixing the wire
19 to the rails. This is fortunate, because the next train scheduled to pass through was carrying
20 97 cars of crude oil. PSR ¶ 13. In addition, as the evidence showed at Reiche's trial, this
21 shunt was placed at a location where it would have interfered with a nearby railroad crossing
22 at Cliffside Drive. *Id.* The lead time for the lights, bells, and gates at that crossing would
23 have been severely shortened and perhaps nonexistent, meaning drivers could have driven
24 into the crossing unaware of an approaching train. *Id.*

25 Brooks was indicted for committing an act of violence against a railroad carrier, in
26 violation of 18 U.S.C. §§ 1992(a)(5), (a)(10), and (c)(1). Dkt. 15. In July 2021, they admitted
27 their role in the offense and pleaded guilty. Dkt. 34. Brooks now appears before the Court for
28 sentencing.

1 **B. Sentencing Guidelines**

2 The parties and the Probation Office agree that the total offense level is 13. PSR ¶ 27;
3 Dkt. 36 at ¶¶ 9–10. Brooks is in criminal history category I. PSR ¶ 30. The resulting
4 Guidelines advisory range is 12 to 18 months.

5 **II. Recommended Sentence**

6 **A. Imprisonment**

7 The government recommends that the Court sentence Brooks to a year and a day of
8 imprisonment. This custodial term, at the low end of the Guidelines range, would account for
9 two sentencing factors of overriding importance in this case: the seriousness of the offense
10 and general deterrence. 18 U.S.C. § 3553(a)(2)(A), (B).

11 First, the offense here was exceptionally serious. Derailments are a real risk, and
12 when they happen, the consequences are devastating. There have been at least two examples
13 just within the past year that hit close to home. In one, an oil train derailed near Custer,
14 Washington, causing massive fires and other damage,¹ and in the other, a passenger train
15 bound for Seattle derailed in Montana, killing three people and injuring dozens.² Here, if a
16 train had derailed where Brooks placed the shunt, then, at a minimum, numerous nearby
17 homes and the train crew would have been badly affected. And even setting aside the risk of
18 a derailment, the shunt endangered anyone crossing the tracks at Cliffside Drive. There
19 might have been no warning from the crossing system at all.

20 Second, there is a need to deter others from committing a similar offense. Shunting
21 became a significant problem last year in Western Washington, and if these incidents were to
22 continue, it would only be a matter of time before the more serious possible consequences
23 materialized. It is hard enough to accept when a derailment happens by chance or mistake;
24 for one to be caused by deliberate misconduct would be beyond the pale. Imposing a

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27 ¹ See <https://www.seattletimes.com/seattle-news/train-carrying-crude-oil-derails-near-custer-whatcom-county/>.

28 ² See <https://www.seattletimes.com/nation-world/amtrak-cross-country-train-derails-near-town-in-montana/>.

1 Guidelines sentence would send a strong message that this exceptionally dangerous conduct
2 is wholly unacceptable.

3 To the defendant's credit, they pleaded guilty and accepted responsibility for the
4 offense. They have no prior criminal convictions. In addition, it seems clear from various
5 evidence that the co-defendant, Reiche, was the leader among the two. It was Reiche, not
6 Brooks, who drove to the scene that night, and Reiche, not Brooks, holding the bag of wire
7 and tools. These factors are incorporated into the Guidelines calculation for Brooks,
8 including by the application of a minor-role reduction. With the resulting range of 12 to 18
9 months, a term at the low end is the appropriate sentence that adequately accounts for the
10 important Section 3553(a) factors at stake.

11 **B. Supervised Release**

12 The government joins the Probation Office in recommending that the Court impose
13 three years of supervised release. The government supports the conditions of supervision
14 proposed by Probation. This term of supervised release will help ensure that Brooks keeps
15 their life moving in a positive direction after this extremely troubling offense.

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1 || III. Conclusion

2 For all these reasons, the Court should sentence Brooks to a year and a day in prison
3 and three years of supervised release.

Dated: October 1, 2021.

Respectfully submitted,

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